

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
Plaintiff-Appellee.

v.

No. 99-4459

THOMAS EUGENE SWANN, SR.,  
Defendant-Appellant.

Appeal from the United States District Court  
for the District of Maryland, at Baltimore.  
Andre M. Davis, District Judge.  
(CR-97-128, CA-99-991-AMD)

Submitted: August 3, 1999

Decided: September 17, 1999

Before MURNAGHAN and LUTTIG, Circuit Judges,  
and BUTZNER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Thomas Eugene Swann, Sr., Appellant Pro Se. Lynne Ann Battaglia,  
United States Attorney, Harvey Ellis Eisenberg, Assistant United  
States Attorney, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See  
Local Rule 36(c).

## OPINION

### PER CURIAM:

Thomas Swann appeals the district court order denying his request for release on bail pending the disposition of his motion filed under 28 U.S.C.A. § 2255 (West. Supp. 1999). A denial of bail is an appealable collateral order. See United States v. Smith, 835 F.2d 1048, 1049-50 (3d Cir. 1987); Cherek v. United States, 767 F.2d 335, 337 (7th Cir. 1985). A person seeking interim release during pursuit of § 2255 relief, however, faces a formidable barrier created by the fact of conviction and the government's interest in executing its judgment. "[I]n the absence of exceptional circumstances . . . the court will not grant bail prior to the ultimate final decision unless[the applicant] presents not merely a clear case on the law, . . . but a clear, and readily evident, case on the facts." Glynn v. Donnelly, 470 F.2d 95, 98 (1st Cir. 1972) (citation omitted); see also Martin v. Solem, 801 F.2d 324, 329 (8th Cir. 1986).

Having reviewed the record, we find that Swann has failed to meet this burden. We therefore affirm the district court's order denying Swann's request for release on bail. Swann's motion for release on bail pending appeal is denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

### AFFIRMED